

## Department of Energy

## § 433.2

shall solicit comments, data and information with respect to that interim determination. Written comments and responsive statements may be submitted as provided in paragraphs (b) and (c) of this section.

(e) *Public announcement of final determination.* The Assistant Secretary for Energy Efficiency and Renewable Energy shall, as soon as practicable, following receipt and review of comments and responsive statements on the interim determination publish in the FEDERAL REGISTER a notice of final determination on the Petition.

(f) *Additional information.* The Department may, at any time during the recognition process, request additional relevant information or conduct an investigation concerning the Petition. The Department's determination on a Petition may be based solely on the Petition and supporting documents, or may also be based on such additional information as the Department deems appropriate.

(g) *Withdrawal of recognition—(1) Withdrawal by the Department.* If the Department believes that a certification program that has been recognized under § 431.447 is failing to meet the criteria of paragraph (b) of the section under which it is recognized, the Department will so advise such entity and request that it take appropriate corrective action. The Department will give the entity an opportunity to respond. If after receiving such response, or no response, the Department believes satisfactory corrective action has not been made, the Department will withdraw its recognition from that entity.

(2) *Voluntary withdrawal.* A certification program may withdraw itself from recognition by the Department by advising the Department in writing of such withdrawal. It must also advise those that use it (for a certification organization, the manufacturers) of such withdrawal.

(3) *Notice of withdrawal of recognition.* The Department will publish in the FEDERAL REGISTER a notice of any withdrawal of recognition that occurs pursuant to this paragraph (g).

[77 FR 26639, May 4, 2012]

## PART 433—ENERGY EFFICIENCY STANDARDS FOR NEW FEDERAL COMMERCIAL AND MULTI-FAMILY HIGH-RISE RESIDENTIAL BUILDINGS

Sec.

433.1 Purpose and scope.

433.2 Definitions.

433.3 Materials incorporated by reference.

433.4 Energy efficiency performance standard.

433.5 Performance level determination.

433.6 Sustainable principles for siting, design and construction. [Reserved]

433.7 Water used to achieve energy efficiency. [Reserved]

433.8 Life-cycle costing.

AUTHORITY: 42 U.S.C. 6831–6832, 6834–6835; 42 U.S.C. 7101 *et seq.*

SOURCE: 71 FR 70281, Dec. 4, 2006, unless otherwise noted.

### § 433.1 Purpose and scope.

This part establishes an energy efficiency performance standard for the new Federal commercial and multi-family high-rise buildings, for which design for construction began on or after January 3, 2007, as required by section 305(a) of the Energy Conservation and Production Act, as amended (42 U.S.C. 6834(a)).

### § 433.2 Definitions.

For purposes of this part, the following terms, phrases and words are defined as follows:

*ANSI* means the American National Standards Institute.

*ASHRAE* means the American Society of Heating, Refrigerating and Air-Conditioning Engineers.

*ASHRAE Baseline Building 2004* means a building that is otherwise identical to the proposed building but is designed to meet, but not exceed, the energy efficiency specifications in ANSI/ASHRAE/IESNA Standard 90.1–2004, Energy Standard for Buildings Except Low-Rise Residential Buildings, January 2004 (incorporated by reference, see § 433.3).

*ASHRAE Baseline Building 2007* means a building that is otherwise identical to the proposed building but is designed to meet, but not exceed, the energy efficiency specifications in ANSI/ASHRAE/IESNA Standard 90.1–2007,

### § 433.3

### 10 CFR Ch. II (1–13 Edition)

Energy Standard for Buildings Except Low-Rise Residential Buildings, December 2007 (incorporated by reference, see § 433.3).

*Commercial and multi-family high-rise residential building* means all buildings other than low-rise residential buildings.

*Design for construction* means the stage when the energy efficiency and sustainability details (such as insulation levels, HVAC systems, water-using systems, etc.) are either explicitly determined or implicitly included in a project cost specification.

*DOE* means the U.S. Department of Energy.

*Federal agency* means any department, agency, corporation, or other entity or instrumentality of the executive branch of the Federal Government, including the United States Postal Service, the Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation.

*IESNA* means Illuminating Engineering Society of North America.

*Life-cycle cost* means the total cost related to energy conservation measures of owning, operating and maintaining a building over its useful life as determined in accordance with 10 CFR part 436.

*Life-cycle cost-effective* means that the proposed building has a lower life-cycle cost than the life-cycle costs of the baseline building, as described by 10 CFR 436.19, or has a positive estimated net savings, as described by 10 CFR 436.20; or has a savings-to-investment ratio estimated to be greater than one, as described by 10 CFR 436.21; or has an adjusted internal rate of return, as described by 10 CFR 436.22, that is estimated to be greater than the discount rate as listed in OMB Circular Number A-94 (Guidelines and Discount Rates for Benefit-Cost Analysis of Federal Programs.)

*Low-rise residential building* means any building three stories or less in height above grade that includes sleeping accommodations where the occupants are primarily permanent in nature (30 days or more).

*New Federal building* means any building to be constructed on a site that previously did not have a building or a complete replacement of an existing

building from the foundation up, by, or for the use of, any Federal agency which is not legally subject to State or local building codes or similar requirements.

*Process load* means the load on a building resulting from energy consumed in support of a manufacturing, industrial, or commercial process. Process loads do not include energy consumed maintaining comfort and amenities for the occupants of the building (including space conditioning for human comfort).

*Proposed building* means the building design of a new Federal commercial and multi-family high-rise building proposed for construction.

*Receptacle load* means the load on a building resulting from energy consumed by any equipment plugged into electrical outlets.

[71 FR 70281, Dec. 4, 2006, as amended at 72 FR 72570, Dec. 21, 2007; 76 FR 49284, Aug. 10, 2011]

### § 433.3 Materials incorporated by reference.

(a) *General.* The Department of Energy incorporates by reference the energy performance standards listed in paragraph (b) of this section into 10 CFR part 433. The Director of the Federal Register has approved the material listed in paragraph (b) of this section for incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Any subsequent amendment to a standard by the standard-setting organization will not affect DOE regulations unless and until DOE amends its energy performance standards. Material is incorporated as it exists on the date of the approval, and a notice of any change in the material will be published in the FEDERAL REGISTER. All approved material is available for inspection at the U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, Sixth Floor, 950 L'Enfant Plaza, SW., Washington, DC 20024, (202) 586-2945. Also, this material is available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: [http://www.archives.gov/federal\\_register/](http://www.archives.gov/federal_register/)